

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



THURSDAY, JUNE 25, 2009.

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JOURNAL OF THE HOUSE.

Thursday, June 25, 2009.

Met according to adjournment at eleven o'clock A.M., with Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Eternal God, we pause for a moment of quiet and prayer so that we can focus our thoughts and attention on You and on spiritual values and realities. We believe that with Your assistance we are enabled to make decisions and choices which are right, honorable, fair and ethical. We also believe that Your guidance helps us to keep our priorities, our common good goals and our personal human and spiritual values in clear focus. In this era of violence in many parts of the world in which the rights and dignity of people are ignored, teach us to continue our respect for the dignity of all individuals in our community. As elected leaders help us to build up trust and respect for our basic institutions which are necessary elements for a peaceful, civil and just society.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Silent Prayer.

At the request of Representatives Turner of Dennis and Timilty of Milton, the members, guests and employees stood in a moment of silent prayer in respect to the memory of Anne Marie Quinlivan, the Chief Financial Officer and Chief of the Statements of Financial Interests Division of the State Ethics Commission, who recently passed away suddenly and unexpectedly. Ms. Quinlivan was hired on December 31, 1978, as the second employee of the newly created State Ethics Commission. She began her more than 30 year career with the Commission as an administrative assistant, and was promoted in turn to the positions of Head Administrative Assistant, Director of Administrative Services, and, finally, CFO and SFI Division Chief. Ms. Quinlivan single-handedly developed the Commission's information technology resources, moving the Commission from typewriters to computers. It was due to Ms. Quinlivan's initiative that elected officials and public employees are now able to electronically file their Statements of Financial Interests, thus making the process simpler and easier for everyone involved. Her importance to the Commission truly cannot be overstated.

Anne Marie
Quinlivan.

Ms. Quinlivan was a dedicated employee, a unique individual, a

generous colleague and a fiercely loyal friend. She leaves behind many family members, friends and colleagues, and will be dearly missed.

Statement Concerning Representative Spellane of Worcester.

A statement of Mr. Vallee of Franklin concerning Mr. Spellane of Worcester was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Spellane of Worcester, will not be present in the House Chamber for today's sitting due to a long standing family obligation. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Spellane of
Worcester.

Guests of the House.

During the session, the Chair (Mr. Mariano of Quincy) declared a brief recess and introduced a group of Irish step dancers, who danced in the well of the House. They were the guests of Mr. Walsh of Boston.

Irish step
dancers.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Rachel Sowersby on receiving the Gold Award of the Girls Scouts of America;

Rachel
Sowersby.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Allison Wilkins on receiving the Gold Award of the Girls Scouts of America;

Allison
Wilkins.

Resolutions (filed by Mr. Alicea of Charlton) honoring Mr. John R. Bacon for his commitment to public service and local government leadership;

John. R.
Bacon.

Resolutions (filed by Mr. Calter of Kingston) congratulating Patrick J. Kilduff on receiving the Eagle Award of the Boy Scouts of America;

Patrick
J. Kilduff.

Resolutions (filed by Messrs. Calter of Kingston and Webster of Hanson) congratulating Scott Mason on receiving the Eagle Award of the Boy Scouts of America;

Scott
Mason.

Resolutions (filed by Mrs. Canavan of Brockton) honoring Eldon F. Moreira and Madeline M. Mulcahy on the occasion of their fiftieth wedding anniversary;

Moreira and
Mulcahy.

Resolutions (filed by Mr. Greene of Billerica and other members of the House) commemorating the seventeenth anniversary of the sister-state relationship between the Commonwealth of Massachusetts and the Province of Taiwan;

Taiwan.

Resolutions (filed by Mr. McMurtry of Dedham) congratulating Richard L. Huyler on the occasion of his retirement from the Dedham Police Department;

Richard
L. Huyler.

Resolutions (filed by Mr. Nyman of Hanover) congratulating Mr. and Mrs. Kenneth Aicardi on the occasion of their fiftieth wedding anniversary;

Kenneth and
Kathleen
Aicardi.

Resolutions (filed by Mr. Nyman of Hanover) recognizing June 2009 as National Scoliosis Awareness Month;

Scoliosis
Month.

Resolutions (filed by Mrs. Peake of Provincetown) congratulating the Wellfleet Harbor, Actors Theatre, known as WHAT, on the occasion of its twenty-fifth anniversary celebration; and

Wellfleet,—
theatre.

Resolutions (file by Ms. Polito of Shrewsbury) honoring Father Ed Moran's retirement, in light of his many years of inspirational religious guidance in the town of Shrewsbury and surrounding communities throughout Massachusetts;

Ed Moran.

Resolutions (filed by Mr. Speliotis of Danvers) celebrating Danvers Family Festival thirtieth anniversary; and

Danvers,—
festival.

Resolutions (filed by Mr. Turner of Dennis) congratulating Dorothea 'Dorie' Loughlin on the occasion of her one-hundredth birthday;

Dorothea
Loughlin.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the Rules, in each instance, on motion of Mr. Pedone of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

A petition of Matthew C. Patrick and others (accompanied by bill, House, No. 4138) relative to the establishment of the Cape Care Community Health Trust (having been returned by the State Secretary, under the provisions of Chapter 3 of the General Laws with memoranda relative thereto) was referred to the committee on Public Health. Sent to the Senate for concurrence.

Cape Care
Health Trust.

Representative Naughton of Clinton and Senator Eldridge presented a joint petition (subject to Joint Rule 12) of Harold P. Naughton, Jr., and James B. Eldridge for legislation to establish a sick leave bank for Judith Fitzsimmons, an employee of the Trial Court; and the same was referred, under Rule 24, to the committee on Rules.

Judith
Fitzsimmons,—
sick leave
bank.
HD4435

Papers from the Senate

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2093) of Fredrick E. Berry (with the approval of the mayor and city council) for legislation to authorize the city of Salem to issue additional licenses for the sale of all alcoholic beverages. To the committee on Consumer Protection and Professional Licensure.

Salem,— liquor
license.

Petition (accompanied by bill, Senate, No. 2094) of Marc R. Pacheco, James H. Fagan, Patricia A. Haddad and Stephen R. Canessa (with the approval of the mayor and city council) for legislation relative to the preliminary election in the city of Taunton. To the committee on Election Laws.

Taunton,— city
election.

Petition (accompanied by bill, Senate, No. 2095) of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation to authorize the town of Carver to divert funds from the Conservation Fund;

Carver,—
conservation fund.

and

Petition (accompanied by bill, Senate, No. 2096) of Bruce E. Tarr and Harriette L. Stanley for legislation to regulate certain insurance benefits for elected officials in the town of Newbury.

Newbury,—
insurance benefits.

Severally to the committee on Municipalities and Regional Government.

A petition of Steven A. Tolman for legislation to establish a sick leave bank for Edward Jedrey, an employee of the Department of Mental Health, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

Edward Jedrey,—
sick leave bank.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate No. 2098) was referred, in concurrence, to the committee on Public Service.

The following notice was received from the Senate, to wit:—

June 25, 2009.

Honorable Robert A. DeLeo
Speaker of the House of Representatives
Room 356 State House
Boston, MA. 02133

Dear Mr. Speaker:

I have the honor to inform you that the Honorable Therese Murray, President of the Senate, has announced the appointment of Senator Anthony Petrucci to the Special Commission established (under Section 87 of Chapter 169 of the Acts of 2008) to make an investigation and study of burning construction and demolition waste.

Burning
construction and
demolition
waste.

Respectfully submitted,
WILLIAM F. WELCH
Clerk of the Senate.

Recess.

At five minutes after eleven o'clock A.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at seven minutes after one o'clock P.M., the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Recess.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the

Quorum,—

presence of a quorum; and on the roll call 136 members were recorded as being in attendance.

yea and nay
No. 156.

[See Yea and Nay No. 156 in Supplement.]

Therefore a quorum was present.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules, that Joint Rule 7B be suspended on following petitions:

Joint petition (accompanied by bill) of Cleon H. Turner and Robert A. O'Leary for legislation to authorize the Dennis Water District to construct and maintain a system for sewage collection treatment and discharge. To the committee on Environment, Natural Resources and Agriculture.

Dennis,—sewage.

Joint petition (accompanied by bill) of Cleon H. Turner and Robert A. O'Leary that the town of Brewster be authorized to impose a room occupancy tax in said town. To the committee on Revenue.

Brewster,—room
occupancy tax.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the reports were considered forthwith. Joint Rule 7B then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Joint petition (accompanied by bill) of Patricia A. Haddad and Joan M. Menard for legislation to establish a sick leave bank for Gayle Tickel, an employee of the Department of Correction. To the committee on Public Service.

Gayle Tickel,—
sick leave
bank.

Joint petition (accompanied by bill) of Patricia A. Haddad and Joan M. Menard relative to the purchase of flags substantially manufactured in the United States. To the committee State Administration and Regulatory Oversight.

Flags,—purchasing.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate.

Mr. Murphy of Burlington, for the committee on Ways and Means, that the House Bill relative to the disposition of property in the town of Westborough (House, No. 3147) ought to pass with an amendment by striking out section 5.

Westborough,—
property.

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, then reported that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Peterson of Grafton, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the bill (House, No. 3147, amended) was ordered to a third reading.

Mr. Murphy of Burlington, for the committee on Ways and Means, that the House Bill relative to the Charlestown Navy Yard (House, No. 4075) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Charlestown
Navy Yard.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, then reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. O'Flaherty of Chelsea, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently the bill, having been reported by the committee on Bill in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill providing for the uniform prudent management of institutional funds (Senate, No. 2078, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Institutional
funds,—
management.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on House, No. 3817, a Bill authorizing the town of Nantucket to grant, sell, convey or otherwise dispose of Muskget Island situated in the town of Nantucket and acquired for the purposes of a public park (House, No. 4134) [Local Approval Received].

Nantucket,—
Muskget
Island.

By the same member, for the same committee, on House, No. 3824, a Bill to amend the charter of the town of Provincetown (House, No. 4135) [Local Approval Received].

Provincetown,—
charter.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Orders of the Day.

The House Bill authorizing the town of Norton to transfer certain park land (House, No. 3697), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Norton,—
park land.

Pending the question on passing the bill to be engrossed, Representatives Barrows of Mansfield and Poirier of North Attleborough moved to amend it by substitution of a bill with the same title (House, No. 4136), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

The report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2052) of the House Bill to improve the laws relating to campaign finance, ethics and lobbying (House, No. 3856), recommending passage of a bill with the same title (House, No. 4133), was considered.

Ethics and
lobbying.

After debate on the question on acceptance of the report of the

Quorum.

committee of conference, Mr. Mariano of Quincy asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 157.

[See Yea and Nay No. 157 in Supplement.]

Therefore a quorum was present.

After remarks (the Speaker being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Dwyer of Woburn; and on the roll call 157 members voted in the affirmative and 0 in the negative.

Committee of
conference report
accepted.

[See Yea and Nay No. 158 in Supplement.]

Therefore the report of the committee of conference was accepted.
Sent to the Senate for its action.

Reports of Committees.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill transferring county sheriffs to the Commonwealth (Senate, No. 2045) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 1153. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

County sheriffs,—
transfer.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, then reported that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Murphy of Burlington, the bill was read a second time forthwith.

Pending the question on adoption of the amendment recommended by the committee on Ways and Means,— to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 1153,— Mr. Perry of Sandwich moved to amend the proposed new text by striking out section 23.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 156 members voted in the affirmative and 0 in the negative.

Further
amendment
adopted,—
yea and nay
No. 159.

[See Yea and Nay No. 159 in Supplement.]

Therefore the further amendment was adopted.

Mr. Mariano of Quincy being in the Chair,— Mrs. Poirier of North Attleborough and other members of the House moved to amend the bill in section 26, in line 481, by striking out the date “July 1, 2009” and inserting in place thereof the date “January 1, 2010”; and the amendment was rejected.

Representatives Kahn of Newton and Linsky of Natick then moved to amend the proposed new text in section 22, after line 449, by inserting the following paragraph:

“6) The need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement

services, family connection services, and re-entry opportunities; and, shall consider the need and present adequacy of placement of female prisoners and detainees in each country.”.

The further amendment was adopted.

Messrs. O’Day of West Boylston and Quinn of Dartmouth then moved to amend the proposed new text in section 7, in line 137, by inserting the following paragraph:

“(f) Notwithstanding any general or special law to the contrary, any correctional facility which is transferred under this section or transferred under section 6 of chapter 34B shall be deemed to be a state facility for the purpose of payment in lieu of taxes to the host municipality.”.

The further amendment was adopted.

Representatives Walsh of Lynn and Murphy of Burlington then moved to amend the proposed new text in section 1, in line 2, by striking out the words “and third paragraphs” and inserting in place thereof the word “paragraph”; in section 2, in lines 19 and 47, by striking out the figures “13” and inserting in place thereof, in each instance, the figures “15”; in line 69, by inserting the following paragraph:

“(e) Every 36 months the board shall examine, study and certify that the percentage of taxes collected in the county of a transferred sheriff that is transmitted to the Deeds Excise Fund, established by section 11, is sufficient to sustain county operations.”; in section 8, in line 142, by inserting after the word “that” the words “prior to said dissolution”; in line 145, by inserting after the word “Company” the “to the county”; and, in line 149, by striking out the words “be transferred to the General Fund” and inserting in place thereof the words “be transferred to the Plymouth sheriff’s Facility Maintenance Trust Account. The Plymouth sheriff shall make expenditures from this account only for the maintenance, repair and replacement of the sheriff’s facilities subject to approval by the commissioner of the department of capital asset management and maintenance”; in section 19, in lines 370 to 377, inclusive, by striking out the paragraph in those lines; in section 22, in line 461, by striking out the date “June 1, 2010” and inserting in place thereof the date “December 31, 2010”; and by inserting after section 25 the following section:

“SECTION 25A. Notwithstanding any general or special law to the contrary, the department of the state auditor shall conduct an independent audit of the total assets, liabilities and potential litigation of each sheriff’s office transferred under this act; provided further that any audit undertaken under this section shall include an audit of any accounts, programs, activities, functions and inventory of all property of a sheriff’s office. The state auditor shall file a report with the secretary of administration and finance and the chairs of the house and senate committees on ways and means no later than April 30, 2010 which shall include, but not be limited to: (i) a summary of the findings under each audit; and (ii) the cost of each audit.”

The further amendments were adopted.

The amendment previously recommended by the committee on Ways and Means,— to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 1153, as amended— then was adopted; and the bill was referred, under Joint Rule 29, to the committees on Rules of the two branches,

acting concurrently.

Mr. Binienda of Worcester, for said committees, then reported that the bill ought to pass. Under suspension of the rules, on motion of Mr. Walsh of Lynn, the bill was considered forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of the same member, the bill was read a third time.

The committee on Bills in the Third Reading reported recommending that it be amended by inserting before the enacting clause the following emergency preamble:

“Whereas, the deferred operation of this act would tend to defeat its purpose, which is to transfer forthwith county sheriffs to the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

The amendment was adopted.

The bill (Senate, No. 2045, amended) then was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments adopted by the House.

Paper from the Senate.

The House Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4125, amended), came from the Senate with the endorsement that it had been passed to be engrossed, in concurrence, by said branch with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2070.

Supplementary
appropriations.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the amendment was considered forthwith.

The same member then moved that the House concur with the Senate in its amendment with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4137. The further amendment was adopted.

The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

Emergency Measure.

The engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4125, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Supplementary
appropriations.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed

Bill
enacted.

to be enacted; and it was signed by the acting Speaker and Senate to the Senate.

Engrossed Bill.

The engrossed Bill to improve the laws relating to campaign finance, ethics and lobbying (see House, No. 4133) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Next
sitting.

At sixteen minutes before seven o'clock P.M., on motion of Mr. Murphy of Burlington (Mr. Mariano of Quincy being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.